

Message Text

CONFIDENTIAL

PAGE 01 BRASIL 06684 01 OF 02 121453Z

46

ACTION SS-25

INFO OCT-01 ISO-00 /026 W

----- 039812

P R 111705Z AUG 75 ZDK

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 866

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 6684

EXDIS

E.O.11652: GDS

TAGS: ETRD, FIN, BR

SUBJECT: TRADE MEASURES

REF: STATE 185309

1. I MADE A PRESENTATION, BASED ON REFTEL, TO THE SEC GEN OF THE FOREIGN MINISTRY FRIDAY, AUGUST 8. (THE FOREIGN MINISTER COULD NOT SEE ME UNTIL EARLY EVENING FRIDAY AND I DID NOT WISH TO DELAY THE PRESENTATION UNTIL THEN.)

2. SPEAKING FROM TALKING POINTS, I COVERED THE MATERIAL IN REFTEL(SEE PARA 8). IN ADDITIONAL REMARKS, I EMPHASIZED THE SENSE OF DISAPPOINTMENT AND DISCOURAGEMENT WE FELT WITH RESPECT TO OUR VERY CONSIDERABLE EFFORTS, GOING BACK TO 1973 WHEN THE SHOE CASE WAS FIRST TAKING SHAPE, TO ESTABLISH CONTINUING CONSULTATIONS ON TRADE ISSUES IN ORDER TO FIND SOLUTIONS, INsofar AS POSSIBLE. I NOTED PARTICULARLY THE DISHEARTENING EFFECT OF THE ADOPTION OF THE MEASURE ON THE BASIS OF THE ROBINSON MISSION AND THE SIMON-SIMONSEN LETTER WHICH EPITOMIZED OUR OWN INTENTIONS TO MAINTAIN AN OPEN DIALOGUE ON TRADE PROBLEMS BETWEEN US. (GUERREIRO, RESPONDING TO MY OFFER TO GIVE HIM A COPY, INDICATED THAT HE HAD SEEN THE SIMON LETTER.) I SAID THAT WE ASSUMED AND EXPECTED THAT ANY POSSIBLE INVOCATION OF THE DECREE

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 06684 01 OF 02 121453Z

WOULD BE PRECEDED BY CONSULTATIONS.

3. GUERREIRO LISTENED TO MY PRESENTATION CAREFULLY, NODDING OCCASIONALLY TO MY PITCH ABOUT OUR LONGSTANDING AND RECENTLY ACCELERATED EFFORTS TO SET UP EFFECTIVE TWO-WAY CONSULTATIONS. IN REPLY, HE STATED THE FOLLOWING:

A. THE DECREE WAS ISSUED (AT NO TIME DID HE GIVE THE SLIGHTEST INDICATION THAT IT WOULD BE WITHDRAWN OR SUSPENDED) IN ORDER TO FILL A GAP IN BRAZILIAN LAW AND REGULATIONS. HE EXPLAINED THAT THERE HAD BEEN NO PROVISION OF BRAZILIAN LAW THAT PERMITTED RETALIATION AGAINST RESTRICTIONS ON BRAZILIAN EXPORTS. HE NOTED THAT, WITH RESPECT TO INTERNATIONAL INSTRUMENTS, THE GATT DID, OF COURSE, AUTHORIZE RETALIATION, PROVIDED THAT OTHER MEANS OF RESOLVING DIFFERENCES HAD BEEN UNSUCCESSFUL. HE ADDED THAT THE LAFTA TREATY WAS NOT AT ALL CLEAR ON THE SUBJECT, ALTHOUGH THERE WERE THOSE WHO ARGUED THAT THE AUTHORITY TO RETALIATE WAS IMPLICIT IN THE LAFTA DOCUMENT. IN BRAZILIAN DOMESTIC LAW AND REGULATIONS THERE HAD BEEN NO PARALLEL AUTHORITY, AND THE DECREE WAS INTENDED TO FILL THAT VOID.

B. HE SAID THAT, DESPITE PRESS ACCOUNTS, THE DECREE WAS NOT AIMED AT THE UNITED STATES. THERE WERE MANY OTHER PROBLEMS WITH OTHER COUNTRIES, PARTICULARLY IN THE LAFTA AREA (READ: ARGENTINA) AND THOSE CASES WERE "EVEN CLEARER" THAN THE ONES WITH THE UNITED STATES.

C. HE AFFIRMED THAT THE DECREE WAS ENTIRELY PROSPECTIVE. HE STATED THAT THERE CERTAINLY WOULD BE CONSULTATIONS BEFORE ANY IMPLEMENTATION OF THE DECREE -- THAT BEING ONE OF THE PURPOSES OF THE DECREE'S REQUIREMENT THAT THE FOREIGN MINISTER BE CONSULTED -- AND THAT THE GOB'S HOPE WAS THAT IT WOULD NEVER BE NECESSARY TO USE THE DECREE.

4. I GAVE GUERREIRO A COPY OF MY TALKING POINTS AND ASKED HIM TO PASS IT TO THE FOREIGN MINISTER, WITH THE EXPLANATION THAT I WOULD HAVE TAKEN THE MATTER UP WITH HIM BUT THAT THE URGENCY OF THE SUBJECT HAD COUNSELLED AGAINST DELAY. THE SECRETARY GENERAL SAID
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 06684 01 OF 02 121453Z

THAT THE FOREIGN MINISTER WOULD SEE THE TALKING POINTS THE VERY DAY.

5. I ALSO TOLD GUERREIRO THAT, UNLESS HE OBJECTED, I PROPOSED TO MAKE A COPY OF THE TALKING POINTS AVAILABLE TO MINISTER SIMONSEN. GUERREIRO REPLIED THAT HE UNDERSTOOD AND CERTAINLY HAD NO OBJECTION.

6. COMMENT: I CONSIDER THAT THE APPROACH WAS USEFUL IN RECORDING THE US REACTION IN CLEAR AND FIRM TERMS, WITH SORROW MORE PROMINENT THAN ANGER BUT WITH THE TONE OF WARNING ABOUT THE DECREE'S NEGATIVE IMPLICATIONS UNMISTAKABLE. GUERREIRO'S ANSWER WAS A SOFT ONE, SOMEWHAT DISINGENUOUS WITH RESPECT TO OUR BEING AN OBJECT OF THE DECREE BUT NOT OVERLY SO SINCE THE GOB DOES HAVE GROWING PROBLEMS IN THE LAFTA AREA AS WELL AS WITH THE EC.

7. I BELIEVE IT WOULD BE USEFUL FOR THE SECRETARY TO

FOLLOW UP WITH A LETTER TO SILVEIRA, DRAWING ON THE POINTS MADE IN THE TALKING POINTS. SUCH A LETTER, COUCHED, OF COURSE, IN FRIENDLY BUT ALSO IN SOBER TERMS, IS WARRANTED BY THE IMPORTANCE OF THE SUBJECT WHICH IS ON A PAR WITH OTHER QUESTIONS TREATED IN THE ONGOING CORRESPONDENCE. IT WOULD UNDERLINE TO SILVEIRA OUR CONCERNS AND MIGHT ALSO FORESTALL AN INJURED INNOCENCE COMMUNICATION FROM HIM. WITH RESPECT TO SILVEIRA'S ROLE, WE ARE SATISFIED, AFTER CHECKING WITH SOURCES IN THE ECONOMIC MINISTRIES AND AGENCIES OUTSIDE THE FINANCE MINISTRY, THAT THAT MINISTRY'S ATTRIBUTION OF SPONSORSHIP OF THE DECREE TO THE FOREIGN MINISTRY WAS ENTIRELY CORRECT. FOR

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BRASIL 06684 02 OF 02 111922Z

47

ACTION SS-25

INFO OCT-01 ISO-00 /026 W

----- 030113

P R 111705Z AUG 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 865

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 6684

EXDIS

EXAMPLE, WHEN I RAISED THE DECREE WITH THE PRESIDENT

OF THE CENTRAL BANK, HIS FIRST WORDS WERE: "THAT'S DIPLOMACY*" LIKE THE DISCIPLINED OFFICIAL THAT HE IS, HE WENT ON, HOWEVER, TO EXPLAIN THE DECREE SOMEWHAT ALONG THE LINES OF GUERREIRO'S COMMENTS. A WELL-PLACED SOURCE IN THE SECRETARIAT OF PLANNING, DISTURBED BY THE PUBLICATION OF THE DECREE, MADE A POINT OF TELLING THE EMBASSY FINANCIAL ATTACHE THAT THE SECRETARIAT HAD HAD NOTHING TO DO WITH THE DECREE, WHICH, HE SAID, HAD COME OUT OF ITAMARATY, "WITH SOME SUPPORT FROM THE FINANCE MINISTRY."

8. THE TEXT OF THE TALKING POINTS PAPER FOLLOWS:

9. QTE: THE USG HAS NOTED WITH CONCERN THE REPORTED PROMULGATION OF A NEW DECREE WHICH APPEARS TO ENVISAGE RETALIATORY ACTION AGAINST COUNTRIES WHICH IN SOME MANNER ARE DEEMED TO IMPEDE THE ENTRY OF BRAZILIAN EXPORTS INTO THEIR MARKET. ALTHOUGH WE NOTE THAT APPLICATION OF THIS DECREE IS PROSPECTIVE AND THAT THE US IS NOT SPECIFICALLY SINGLED OUT AND IDENTIFIED AS A TARGET OF SUCH MEASURES, WE ARE CONCERNED BY THE TIMING OF THE REPORTED MEASURE, THE APPARENTLY BROAD NATURE OF ITS PROVISIONS (INCLUDING THE LACK OF ANY REFERENCE TO THE GATT), AND THE LACK OF ANY CONSULTATIONS WITH THE US AS ONE OF BRAZIL'S PRINCIPAL TRADING PARTNERS.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 06684 02 OF 02 111922Z

PARTNERS.

10. THE EMBASSY HAS BEEN INSTRUCTED TO CONVEY THESE US CONCERNS AND TO REQUEST CLARIFICATION OF THE NATURE OF THIS MEASURE OF THE INTENTIONS OF THE BRAZILIAN AUTHORITIES WITH RESPECT TO ITS APPLICATION. THE INQUIRY IS MADE IN A SPIRIT OF COOPERATION BUT WITH DEEP CONCERN OVER THE POTENTIAL IMPLICATIONS AND REPERCUSSIONS FOR OUR BILATERAL RELATIONS IF THE MEASURE IS APPLIED IN THE MANNER WHICH ITS BROAD TERMS APPEAR TO SUGGEST. OUR PURPOSE ALSO IS TO CLARIFY US ATTITUDES AND TO FORESTALL ANY POTENTIAL MISUNDERSTANDING AS TO HOW THE US WOULD VIEW, AND MIGHT BE REQUIRED TO REACT TO, THE APPLICATION OF THE MEASURE.

11. THE UNITED STATES RECOGNIZES THAT, GIVEN THE NATURE, SIZE AND DYNAMISM OF THE COMMERCE BETWEEN THE UNITED STATES AND BRAZIL, THERE ARE IMPORTANT TRADE ISSUES BETWEEN US. OUR EFFORT HAS BEEN OR FOSTER A CLIMATE, AND TO CREATE CONSULTATIVE MACHINERY, IN WHICH THESE ISSUES COULD BE ADDRESSED EXPEDITIOUSLY AND EFFECTIVELY, AND THROUGH WHICH NEW PROBLEMS COULD BE IDENTIFIED, DISCUSSED AND, IF POSSIBLE, NEGOTIATED AT

AN EARLY STAGE. THE CORRESPONDENCE OF SECRETARY KISSINGER, CORRESPONDENCE BETWEEN SECRETARY SIMON AND MINISTER SIMONSEN, THE VISIT BY UNDER SECRETARY ROBINSON, THE RESULTANT AGREEMENT TO ESTABLISH A BILATERAL ECONOMIC CONSULTATIVE MECHANISM (WITH A SUB-GROUP ON TRADE), PAST COOPERATION BETWEEN THE TWO GOVERNMENTS WITH RESPECT TO COUNTERVAILING DUTY CASES, AND THE EMBASSY'S REGULAR AND PERIODIC CONSULTATIONS WITH BRAZILIAN AUTHORITIES--ALL THESE HAVE BEEN DESIGNED TO ADVANCE THIS PURPOSE. THE POSSIBILITY OF ADDITIONAL STEPS TO FURTHER THIS EFFORT WAS PART OF MY RECENT CONSULTATIONS IN WASHINGTON.

12. US AUTHORITIES HAVE BEEN UNDER THE IMPRESSION THAT THESE PURPOSES AND SPECIAL EFFORTS IN THE ECONOMIC SPHERE WERE FULLY UNDERSTOOD AND SHARED BY THE BRAZILIAN AUTHORITIES, AND THAT GOOD PROGRESS WAS BEING MADE BY THE TWO PARTIES.
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 06684 02 OF 02 111922Z

13. AGAINST THIS BACKGROUND OF SHARED EFFORT, THE REPORTED DECREE WOULD APPEAR TO US TO BE UNTIMELY AND REGRETTABLE. WHILE US AUTHORITIES APPRECIATE THE BRAZILIAN PREOCCUPATION IN REGARD TO ITS EXPORT PROSPECTS AND THE BALANCE OF PAYMENTS, US VIEWS ON THE REPORTED DECREE MAY BE SUMMARIZED:

(A) THE MEASURE WOULD BE CONTRARY TO OUR EFFORTS, AS OUTLINED IN SECRETARY KISSINGER'S CORRESPONDENCE, TO RESOLVE TRADE PROBLEMS BY CONSULTATION AND NEGOTIATION, EITHER BILATERALLY OR IN THE FRAMEWORK OF THE GATT, IN A SPIRIT OF COOPERATION.

(B) FOLLOWING SO SOON AFTER UNDER SECRETARY ROBINSON'S VISIT, INCLUDING AGREEMENT TO ESTABLISH A TRADE CONSULTATIVE MECHANISM TO DEAL WITH BILATERAL PROBLEMS, THE MEASURE COULD NOT HELP HAVING MARKEDLY NEGATIVE EFFECT ON THESE EFFORTS AT STRENGTHENED BILATERAL COOPERATION.

(C) WITH RESPECT TO THE PROBLEM OF EXPORT SUBSIDIES AND COUNTERVAILING DUTIES, WHILE THE US RECOGNIZES THAT BRAZIL CONSIDERS THE PRESENT PROVISIONS UNDER THE GATT UNSATISFACTORY, THE DECREE, IN OUR VIEW, IS COUNTERPRODUCTIVE WITH RESPECT TO CURRENT EFFORTS TO NEGOTIATE A NEW SUBSIDY/COUNTERVAILING DUTY CODE IN THE MULTILATERAL TRADE NEGOTIATIONS.

(D) UNTIL SUCH TIME AS A NEW CODE IS AGREED AND RATIFIED, US COUNTERVAILING DUTY ACTIONS, PRESCRIBED BY US LAW, ARE CONSISTENT WITH US RIGHTS AND OBLIGATIONS UNDER THE GATT, AND RETALIATION AGAINST SUCH MEASURES WOULD, THEREFORE, BE UNJUSTIFIED. RETALIATORY

MEASURES UNDER THE DECREE WOULD ALSO, VERY PROBABLY,
LEAD TO FURTHER DIFFICULTIES BROUGHT ABOUT BY A
MUTUALLY HARMFUL PROCESS OF RETALIATION AND COUNTER-
RETALIATION.

(E) IMPLEMENTATION OF THE DECREE COULD HAVE AN
UNSETTLING EFFECT ON RELATIONS OUTSIDE THE TRADE AREA.

14. WE APPRECIATE THE COOPERATION WHICH THE US HAS
RECEIVED FROM THE BRAZILIAN AUTHORITIES IN THE PAST.
CONSISTENT WITH SECRETARY KISSINGER'S PROPOSALS FOR
INCREASED CONSULTATIONS AND WITH THE AGREED CONSULTATIVE
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 BRASIL 06684 02 OF 02 111922Z

MECHANISM, WE HOPE THAT THIS COOPERATION CAN
CONTINUE THROUGH CONSULTATIONS ON, AND NEGOTIATION
OF, SUCH ISSUES AS WILL ARISE FROMTIME TO TIME, IN
ADVANCE OF UNILATERAL ACTION BY EITHER GOVERNMENT.
UNQTE.
CRIMMINS

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ECONOMIC COOPERATION, TRADE LAW, TEXT, IMPORT CONTROLS, DIPLOMATIC PROTESTS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 AUG 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BRASIL06684
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750278-0345
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750862/aaaaccem.tel
Line Count: 300
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: EXDIS
Reference: 75 STATE 185309
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 04 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 SEP 2003 by CunninFX>; APPROVED <26 NOV 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TRADE MEASURES
TAGS: ETRD, EFIN, BR, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006